

### **301 KAR 1:115. Propagation of aquatic organisms.**

RELATES TO KRS 150.025, 150.280, 150.290, 150.485

STATUTORY AUTHORITY: KRS 150.025, 150.280, 150.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.280 provides that no person shall propagate or hold wildlife without a permit. This administrative regulation establishes the requirements for obtaining a permit and the requirements that shall be followed by permit holders.

Section 1. Definitions. (1) "Aquatic organisms" means fishes, frogs, crayfish and other aquatic vertebrates and invertebrates.

(2) "Minnows" are defined in 301 KAR 1:130.

(3) "Permit" means a fisheries commercial propagation permit.

(4) "Water supply lake" means a lake that is:

(a) Owned by a municipality or other public water supply entity;

(b) Provides potable water supply for the public;

(c) Not owned by the state; and

(d) Not managed by the department.

Section 2. Permit Requirements and Application Procedures. (1) Before acquiring or propagating aquatic organisms, a person shall obtain a permit.

(2) A permit applicant shall obtain the permit application form from the department.

Section 3. Acquisition of Brood Stock from Public Waters. (1) A permit holder may obtain from public waters a maximum of 1,500 minnows or crayfish per surface acre of water used for propagation of a particular species.

(2) Each permit holder shall obtain brood stock from public waters no more than one (1) time for both minnows and crayfish.

(3) A conservation officer shall supervise the acquisition of brood stock from public waters.

(4) A permit holder shall use gear authorized by 301 KAR 1:130 to acquire aquatic organisms from public waters.

(a) Upon request at the time of application for a permit, the department may authorize an applicant to use seines larger than ten (10) feet in length, gillnets, and other fish collection gear.

(b) A permit holder shall attach a metal tag, furnished by the department, to authorized seines over ten (10) feet, gillnets, and other fish collection gear showing:

1. The name of the owner;

2. Gear type; and

3. The date the permit expires.

(c) A permit holder shall use approved fish collection gear in waters designated in the application.

Section 4. Sale of Aquatic Organisms. A permit holder may sell propagated aquatic organisms.

Section 5. The department may issue a permit with no fee to elementary, middle and secondary schools and similar educational institutions if the propagated organisms are to be used for educational purposes.

Section 6. The commissioner may grant approval and issue a permit for paddlefish to be stocked and reared in approved water supply lakes for aquaculture purposes as provided for in 301 KAR 1:110 by completing a permit application and submitting it to the department.

(1) A municipality may allow a second party to rear paddlefish if the commissioner grants approval and issues a permit for paddlefish to be stocked and reared in an approved water supply lake.

(2) If a municipality or other public water supply entity allows a second party to rear paddlefish, a contractual agreement between the two (2) granting permission to use the lake for rearing paddlefish shall be required for the extent of the rearing period. A copy of the contractual agreement shall be submitted to the department before a permit is issued.

(3) Water supply lakes that are currently open to sport fishing shall be required to remain open to sport fishing throughout the length of the rearing of paddlefish.

(4) Paddlefish shall be the only species permitted to be stocked in the approved water supply lakes.

(5) The number of paddlefish stocking events for each rearing period shall be limited to one (1) for each approved water supply lake. Any additional stocking events shall require prior approval by the commissioner.

(6) The permit applicant shall list the name of each water supply lake on the permit application.

(7) A permit shall be obtained for every year of the paddlefish rearing period.

(8) The department shall not:

(a) Enforce the protection of the stocked paddlefish; or

(b) Establish paddlefish sport fish administrative regulations in any of the approved water supply lakes.

(9) Paddlefish that escape in the stream, either above or below the lake, shall not be considered property of the permit holder.

(10) The department shall not be responsible for any corrective actions associated with fish populations in the approved water supply lakes used for aquaculture purposes.

(11) If a municipality rears paddlefish without a contractual agreement with a second party, it shall provide the department with a name of a person responsible for the rearing of the paddlefish in the approved water supply lakes.

(12) A permit holder may use gill nets to take paddlefish only from the approved water supply lakes listed on the permit. A permit holder shall be on site each time gill nets are used in the approved water supply lakes.

(a) The department shall be notified at least one (1) week in advance of any paddlefish harvest from approved water supply lakes, including the random sampling of the stocked paddlefish that require the use of gill nets.

(b) Gill nets shall only be used in the approved water supply lakes from December 1 through March 31.

(c) Gill nets shall not have a bar mesh size smaller than five (5) inches.

(d) A permit holder shall attach a metal tag provided by the department to each gill net used.

(e) Paddlefish shall be the only species of fish harvested; any other species of fish captured shall be immediately released without undue injury.

Section 7. Inspection of Facilities and Revocation of Permits. (1) A permit holder shall allow a conservation officer to inspect his or her facilities.

(2) The department shall:

(a) Revoke the permit of a person found guilty of violating a statute or administrative regulation pertaining to propagation of aquatic organisms; and

(b) Not renew the permit for a period of up to two (2) years of a person that has been found guilty of violating a statute or administrative regulation pertaining to propagation of aquatic organisms.

(3) Fees paid for revoked permits shall not be refunded.

(4) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 8. Incorporation by Reference. (1) Fisheries Commercial Propagation Permit Application, 2006, Department of Fish and Wildlife Resources, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Fisheries, Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. and 4:30 p.m. (KFWR-F-119; 1 Ky.R. 241; eff. 1-8-75; Am. 4 Ky.R. 569; eff. 8-2-78; 5 Ky.R. 1077; eff. 8-1-79; 21 Ky.R. 489; eff. 9-28-94; 27 Ky.R. 3329; 28 Ky.R. 354; eff. 8-15-2001; 30 Ky.R. 1585; eff. 2-16-04; 32 Ky.R. 306; eff. 10-12-05; 32 Ky.R. 2084; 33 Ky.R. 85; eff. 7-12-06; 34 Ky.R. 2033; eff. 5-2-2008.)